

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

BEN WALKER, :
Plaintiff : CIVIL ACTION NO. 3:16-0681
v. : (MANNION, D.J.)
(SAPORITO, M.J.)
COURT OF COMMON PLEAS OF :
MONROE COUNTY, :
PENNSYLVANIA, DOMESTIC :
RELATIONS SECTION :
Defendant :
:

MEMORANDUM

Pending before the court is the report and recommendation of Magistrate Judge Joseph F. Saporito, Jr., (Doc. [14](#)), which recommends that the plaintiff's complaint, (Doc. [1](#)), be dismissed based on the plaintiff's failure to comply with the service requirements of Federal Rule of Civil Procedure 4. The plaintiff filed one objection to Judge Saporito's report after the fourteen (14) day period for objections had passed.¹ Based on the foregoing, Judge Saporito's report is **ADOPTED IN ITS ENTIRETY** and the plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE**.

¹ The court liberally construes the plaintiff's November 21, 2016 letter to the court, (Doc. [15](#)), as an objection. The objection is untimely per [28 U.S.C. §636\(b\)\(1\)](#) and [Local Rule 72.3](#). In addition, the objection does not address the legal argument in Judge Saporito's report. Instead, the plaintiff objects based on a perceived error in the docket number listed on the report. The docket number on Judge Saporito's report is correct and the plaintiff's objection is unfounded.

Where no timely objection is made to a report and recommendation, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” [Fed. R. Civ. P. 72\(b\)](#), advisory committee notes; see also [Univac Dental Co. v. Dentsply Int'l, Inc.](#), 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010). District judges should give some “level of review to dispositive legal issues raised by the report.” [Henderson v. Carlson](#), 812 F.2d 874, 878 (3d Cir. 1987). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. [28 U.S.C. §636\(b\)\(1\); Local Rule 72.3.](#)

The court has reviewed each of the recommended bases presented by Judge Saporito for dismissing the plaintiff’s complaint. Because the court agrees with the sound reasoning that led Judge Saporito to the conclusions in his report and finds no clear error on the face of the record, the court will adopt the report in its entirety. An appropriate order shall issue.

/s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Date: November 23, 2016

O:\Mannion\shared\MEMORANDA - DJ\CIVIL MEMORANDA\2016 MEMORANDA\16-0681-01.wpd